

The Honorable Marsha J. Pechman
Note on Motion Calendar: April 24, 2020

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NANCY GILL,

Plaintiff,

vs.

MICHAEL MAGAN, MICHAEL GONZALEZ,
TIMOTHY RENIHAN AND THE CITY OF
SEATTLE,

Defendants.

No. 2:19-cv-00860-MJP

JOINT MOTION TO RECONSIDER
PARTIES' STIPULATED MOTION TO
AMEND MINUTE ORDER SETTING
TRIAL DATES AND RELATED DATES

Note on Motion Calendar: April 24, 2020

Plaintiff and Defendants, through their undersigned counsel of record, hereby jointly move the Court to reconsider parties' Stipulated Motion to Amend Minute Order Setting Trial Date and Related Dates ("Stipulated Motion") (Dkt. 43) filed April 16, 2020.

On April 20, 2020, the Court denied parties' Stipulated Motion (Dkt. 44). In its Order denying parties' Stipulated Motion (Dkt. 44), the Court provided the following guidance: "The Parties are free to submit a revised motion with a more detailed explanation of the reasons why the Court should extend the current deadlines." (Dkt. 44 at 2). Jointly heeding the Court's guidance, the parties

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1 respectfully move the Court to reconsider parties' Stipulated Motion. The Court's guidance on
 2 additional details for the parties to provide in a resubmittal included the following: "... when the
 3 Plaintiff will next be available, who remains to be deposed, or what efforts the Parties have taken to
 4 conduct teleconference video depositions." (Dkt. 44 at 2).

5 Heeding the Court's additional guidance, the Parties elaborate as follows:

- 6 • The Plaintiff will be available to physically sit for a deposition on or after August 1, 2020.
- 7 • ¹The remaining deponents include: (1) the Plaintiff; (2) Bridget Gill; (3) Sandra Reeves,
 8 Licensed Mental Health Counselor ("LMHC"); (4) Cary Shore, Board Certified Family
 9 Psychiatric Mental Health Nurse Practitioner; (5) Dr. Jeffrey Pearce; (6) Kelly Meldrum; (7)
 10 Katherine Dovich; (8) Detective Don Waters; (9) Lieutenant Nick Bauer; (10) Sergeant Kevin
 11 Aratani; (11) Expert witnesses; (12) Lillya Nesteruk; (13) Eric Barden and (14) Detective Tim
 12 Renihan. Additionally, Plaintiff's deposition is necessary to determine any additional
 13 deponents and expert witness depositions have yet to occur.
- 14 • To date, the parties have not taken steps to conduct teleconference video depositions in hopes
 15 of conducting more fruitful in-person depositions.

16 Several unique obstacles, which parties should have elaborated on in their Stipulated Motion,
 17 necessitate an extension of existing deadlines. First, as earlier described, Plaintiff is unable to
 18 physically sit for any sort of deposition (whether virtual or in-person) until August 1, 2020 given her
 19 recovery from spinal surgery. Plaintiff anticipates that she will be able to sit for a virtual or in-person
 20 deposition on or after August 1, 2020. During surgery on February 12, 2020, Ms. Gill had a Miami
 21 J. Cervical Collar ("Collar")² installed on her neck, which she must wear at all times and which she
 22

23 ¹ There may be other deponents not contemplated at this time.

² Ms. Gill's Collar is shown in the picture below:

1 cannot remove. This device makes it very difficult for Plaintiff to talk and she cannot turn her head.
2 She must wear the Collar until her bones are fused and Ms. Gill's doctor has informed her that this
3 process takes from three to six months. Ms. Gill is unable to look down and that would be necessary
4 to review documents. Ms. Gill's neck has no mobility. Leaving her residence with her asthma during
5 this pandemic is not an option, regardless of the method of deposition. Additionally, it is very difficult
6 for Ms. Gill to concentrate or focus because of pain and medication (Methocarbamol) to relax her
7 muscles and relieve pain. The Methocarbamol medication also prohibits Ms. Gill from driving.

8 Second, given Plaintiff's claims of physical injury and depending on her claimed damages at
9 her deposition, Plaintiff may need an independent medical exam ("IME") following her deposition.
10 However, the very real threat of contracting or transmitting COVID-19 in medical settings, including
11 that of an IME conducted by a medical professional, is a factor warranting an extension of existing
12 deadlines. Further, an IME would require close physical contact between the Plaintiff and a medical
13 professional in contravention of social distancing directives still in place with no definitive end date.

14 The parties agree that a four-month extension of all deadlines will allow the parties to conduct
15 Plaintiff's deposition and an IME without jeopardizing Plaintiff's health/medical recovery or the
16 health of others. This proposed extension of the existing deadlines in the case schedule will not affect



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any other deadlines already passed and is not intended for a dilatory purpose.

The parties propose the following amended case schedule:

JURY TRIAL DATE	April 19, 2021 at 9:00 a.m.
Reports from Expert Witness under FRCP 26(a)(2) due	September 18, 2020
All motions related to discovery must be filed by and noted on the motion calendar on the third Friday thereafter (CR7(d))	October 16, 2020
Discovery completed by	November 20, 2020
All dispositive motions must be filed by and noted on the motion calendar on the fourth Friday thereafter (See CR7(d))	December 17, 2020
All motions in limine must be filed and noted on the motion calendar no earlier than the third Friday thereafter and no later than the Friday before the pretrial conference	March 11, 2021
Agreed pretrial order due	April 5, 2021
Trial briefs, proposed voir dire questions, proposed jury instructions	April 5, 2021
Pretrial Conference	April 7, 2021 at 1:30 PM
LENGTH OF JURY TRIAL	4 DAYS

For the foregoing reasons, the parties respectfully request that the Court reconsider parties' Stipulation Motion and grant an extension of four months of all remaining deadlines.

DATED this 24th day of April, 2020.

PETER S. HOLMES
Seattle City Attorney

By: /s/ Susan Park
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ORDER

THIS MATTER having come before the Court and the Court having considered the Motion,
now, therefore:

IT IS ORDERED THAT the case scheduling order is modified as set forth above.

DATED this 24th day of April, 2020



Marsha J. Pechman
United States District Judge